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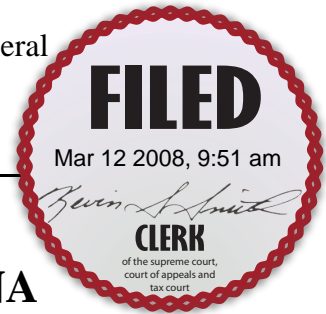
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**IN THE
COURT OF APPEALS OF INDIANA**

FRANK E. GOSS,

Appellant-Petitioner,

vs.

STATE OF INDIANA,

Appellee-Respondent.

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No. 49A02-0702-CR-159

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Sheila A. Carlisle, Judge
The Honorable William T. Robinette, Master Commissioner
Cause No. 49G03-0504-MR-56780

March 12, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Frank E. Goss appeals the denial of his motion to correct erroneous sentence. Because the allegations of error he raised in his motion would have required the court to examine documents other than the sentencing judgment, the court did not err when it summarily denied his petition. Accordingly, we affirm.

FACTS AND PROCEDURAL HISTORY

On December 30, 2005, the court entered against Goss judgments of conviction of Class B felony attempted robbery¹ and Class B felony battery.² The court sentenced Goss to ten years for robbery and eighteen years for battery, and ordered those sentences served concurrently.

On November 20, 2006, Goss filed a motion to correct erroneous sentence. He asserted his sentencing was erroneous because the information before the sentencing court indicated his criminal history included one Class D felony, when a plea agreement required that Class D felony conviction be reduced to a Class A misdemeanor after Goss successfully completed a prior term of probation. The court summarily denied his motion.

DISCUSSION AND DECISION

A motion to correct erroneous sentence is derived from Indiana Code § 35-38-1-15, which explains erroneous sentences are not void, but rather must be corrected. The statute provides “prompt, direct access to an uncomplicated legal process for correcting the occasional erroneous or illegal sentence.” *Robinson v. State*, 805 N.E.2d 783, 785

¹ Ind. Code § 35-42-5-1; Ind. Code § 35-41-5-1.

² Ind. Code § 35-42-2-1.

(Ind. 2004).

When claims of sentencing errors require consideration of matters outside the fact of the sentencing judgment, they are best addressed promptly on direct appeal and thereafter via post-conviction relief proceedings where applicable. Use of the statutory motion to correct sentence should thus be narrowly confined to claims apparent from the face of the sentencing judgment, and the “facially erroneous” prerequisite should henceforth be strictly applied [A] motion to correct sentence may only be used to correct sentencing errors that are clear from the face of the judgment imposing the sentence in light of the statutory authority. Claims that require consideration of the proceedings before, during, or after trial may not be presented by way of a motion to correct sentence.

Id. at 787.

When Goss committed his crimes, the presumptive sentence for a Class B felony was ten years. *See* Ind. Code § 35-50-2-5. The court had discretion to increase the sentence by ten years for aggravators, or to decrease the sentence by four years for mitigators. *See id.* Accordingly, the two sentences Goss received, of ten and eighteen years, were within the court’s statutory authority.

Moreover, addressing the merits of Goss’s challenge to his sentence – that the sentencing court mistakenly believed Goss’s criminal history contained a prior felony conviction – would have required the court to consider evidence outside the face of the sentencing document. Because Goss’s claim would have required the trial court to consider the proceedings before his trial, the court could not address them on a motion to correct erroneous sentence. *See Robinson*, 805 N.E.2d at 787. Accordingly the court did not err when it summarily denied Goss’s motion.

Affirmed.

KIRSCH, J., and RILEY, J., concur.